

RECEIVED
CENTRAL FAX CENTER
AUG 16 2006

REMARKS

Applicant has amended Claim 16 in response to the Office Action. Also, new claims 22-29 have been added. The subject matter of the new claims is supported in the application and the figures. No new matter has been added.

Section 102 Rejections

According to the Office Action claims 15-20 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,918,604 to Whelan (hereafter referred to as "Whelan").

Applicant respectfully disagrees and requests reconsideration. It is well established that "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP § 2131 *citing* Verdegaaal Bros. V. Union Oil Co. of California, 814 F.2d 628, 631 (Fed. Cir. 1987).

Claim 15 recites a claim limitation that is not found in the cited reference. In particular, claim 15 recites forming a passing pin tunnel and pulling the sutures through said passing pin tunnel. The passing pin tunnel extends along the femoral tunnel and out of the femur. Whelan does not disclose this claim limitation. Whelan, as shown in Figures 12-13 pulls the sutures transversely through a transverse tunnel. This is distinct from applicant's invention.

The other claims rejected in the above rejection depend from claim 15 or a claim depending thereon. Based on the foregoing, reconsideration and withdrawal of the rejection of claims 15-20 under Section 102 is requested.

Additionally, the Office Action indicates that claim 21 is rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 5,601,562 to Wolf (hereafter referred to as "Wolf").

Claim 21 recites a claim limitation that is not found in the cited reference. In particular, Claim 21 recites that the suspension device includes an abutment surface that is at an angle to said longitudinal axis of said device. The abutment surface is also adapted to press the graft against the opposite wall.

Notably, the last step of method claim 21 requires that the graft is urged against the opposite wall by the abutment surface. Nowhere in Wolf is this claim limitation disclosed. As shown in Figure 1 of Wolf, the graft is supported by the implant (4) but the graft is not pushed or urged against an opposite wall by an abutment surface. The Office Action indicates that the

Wolf device may move the graft via friction. However, the claim requires more. Claim 21 now recites that the abutment surface has a specific geometry that is not shown in the Wolf patent because Wolf does not teach to urge the graft against the wall with an abutment surface that is substantially at an angle to the longitudinal axis. Based on the foregoing, Applicant requests reconsideration and withdrawal of the rejection of Claim 21 over Wolf.

Section 103 Rejections.

As indicated above Whelan does not teach all claim limitations recited in amended claim 15. A proper *prima facie* case of obviousness under Section 103 requires, amongst other things, that the reference (or references when combined) must teach or suggest all the claim limitations. MPEP § 2142. In this instance, the cited reference does not teach the pulling the sutures through the passing pin tunnel as discussed above. For at least this reason, Whelan does not teach or suggest all claim limitations found in claim 15 and the claims depending thereon.

The other references being applied under Section 103 rejections do not make up for the shortcomings identified above in connection with Whelan. Accordingly reconsideration and withdrawal of all the rejections under Section 103 are respectfully requested.

Applicant has made a sincere effort to respond to all issues raised in the Office Action. Applicant submits the case is now in condition of allowance. If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at (408) 736-0224.

Respectfully submitted,



Richard R. Batt
Reg. No. 43,485

ArthroCare Corporation
680 Vaqueros Avenue
Sunnyvale, CA 94085-3523
(408) 736-0224